DEPARTMENT of the INTERIOR

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ENDANGERED SPECIES COMMITTEE COMPLETES REPORT ON GRAYROCKS AND TELLICO

The Cabinet-level Endangered Species Committee has released its written decision reflecting its unanimous January 23 actions conditionally exempting the Grayrocks Project in Wyoming from Section 7(a) of the Endangered Species Act, and denying any exemption to the Tellico Project in Tennessee.

Chaired by Secretary of the Interior Cecil D. Andrus, the Committee was created by Congress in adopting the Endangered Species Act Amendments of 1978. The legislation specifically required decisions by the Committee on the two projects within 90 days after the Amendments became law--in effect, a deadline of February 8, 1979.

Section 7(a) says in part: "Each Federal agency shall, in consultation with and with the assistance of the Secretary (of the Interior), insure that any action authorized, funded, or carried out by such agency does not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary...to be critical."

To exempt any project from that section, the Committee must determine that there are no reasonable and prudent alternatives to the project; that the benefits of the project "clearly outweigh" those of alternative courses of action consistent with conserving the species or its critical habitat, and the project is in the public interest. In future cases the Committee will also have to determine if the project is of regional or national significance. When an exemption is granted, the Committee also is required to establish "such reasonable mitigation and enhancement measures" as are necessary and appropriate to minimize the adverse effects of the action upon the species or habitat involved.

The Grayrocks Dam and Reservoir is being built near Wheatland, Wyoming, by a group of public power entities to store some of the waters of the Laramie River for cooling three coal-fired electric generating plants designed to produce 1,500 megawatts of power for consumers in eight States. Part of the construction costs are guaranteed by the Rural Electrification Administration, and the project has a Section 404 dredge-and-fill permit from the Army Corps of Engineers.

The Laramie flows into the Platte River, parts of whose basin in Nebraska has been determined by the U.S. Fish and Wildlife Service to be critical habitat for the endangered whooping crane. Only about 115 of these spectacular birds continue to survive in a wild state. The Platte River areas are crucial to their normal migration pattern, and abnormally low river flows could allow the vegetation to change, making these areas unsuitable for the cranes.

Opposing the project, the State of Nebraska and two major environmental organizations sued successfully to halt Grayrocks construction. Late in 1978, pending an appeal, the litigants agreed to a settlement which would limit the maximum annual water use by the Grayrocks Project; obtain firm agreement to certain releases of water from the reservoir during various periods of the year; replace, subject to certain adjustments, water withdrawn by a nearby irrigation district; and establish a \$7.5 million trust fund for maintenance and enhancement of the cranes' critical habitat.

On January 23, the Endangered Species Committee upon a motion by Secretary of Agriculture Bob Bergland and seconded by Environmental Protection Administrator Douglas M. Costle, unanimously voted after considering four other alternatives to grant an exemption to the Grayrocks Project, on condition the mitigation actions agreed on in the settlement are adopted. Its formal order states that costs will be borne by the Missouri Basin Power Project, which is constructing Grayrocks, and specifies that the enhancement measures "are to be carried out without regard to the final disposition of the Agreement of Settlement and Compromise signed by the litigating parties"--in other words, the exemption applies only if the mitigation and enhancement package is adopted.

The Tellico Dam and Reservoir Project on the Little Tennessee River was halted when largely complete by an environmentalist lawsuit against the sponsoring agency, the Tennessee Valley Authority. In June 1978 the United States Supreme Court affirmed the verdict of the lower courts, which found the project would jeopardize the critical habitat of the endangered snail darter, a three-inch member of the perch family native only to that stretch of that river.

Following Supreme Court action, TVA produced a report outlining two alternatives for the future--completion of the project as authorized ("Reservoir Development"), and a "River Development" option, essentially partial removal of the dam to let the river run free, and base the immediate area's future economic development on the benefits obtainable from a free-flowing river and the project land.

Benefit-to-cost ratios prepared by the staff of the Endangered Species Committee indicated that economic benefits and costs of the two plans were comparable.

In offering the motion to deny an exemption, Committee member Charles L. Schultze, who is Chairman of the Council of Economic Advisers, observed that the benefits of the Reservoir Development option did not "clearly outweigh" those of the River Development option, and that TVA's report showed there was a "reasonable and prudent alternative" to completing the project as originally planned. The motion to deny the exemption was seconded by Dr. Richard A. Frank, Administrator of the National Oceanic and Atmospheric Administration, and the motion carried unanimously with all seven members of the Committee present and voting. This finding is contained in the written decision.